

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL J. BERBERICH,

Petitioner,

v.

HELEN MARBERRY,

Respondent.

CASE NO. 05-CV-74678-DT

HON. GEORGE CARAM STEEH

ORDER REGARDING CERTIFICATE OF APPEALABILITY

On September 6, 2006, this court entered an order accepting the magistrate's report and recommendation to dismiss petitioner's application for habeas corpus. On September 9, 2006, the petitioner filed his notice of appeal. Pursuant to 28 U.S.C. § 2253(c)(1)(b), an appeal of a habeas corpus proceeding may not be taken unless a certificate of appealability is first issued. A certificate of appealability is issued "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). It is this court's determination that no such showing has been made. Therefore, the court will decline to issue a certificate of appealability in this matter.

IT IS SO ORDERED.

Dated: October 12, 2006

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
October 12, 2006, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk

